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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

James Whitlow Delano,

Plaintiff,

v.

Rowland Network Communications, LLC, and
Arizona limited liability company,

Defendant.

Case No. 2:19-cv-02811-MTL

**DEFENDANT'S MOTION FOR
ISSUANCE OF ORDER TO
SHOW CAUSE REGARDING
PLAINTIFF'S FAILURE TO
OBEY A DISCOVERY ORDER
OF THIS COURT**

Plaintiff has failed to obey a discovery order of this Court, the Court's May 3, 2019 Notice re: Mandatory Initial Discovery Pilot including General Order 17-08 (Doc. 6)¹ and the Court's Order Setting Telephonic Scheduling Conference (Doc 40). Thus, defendant respectfully moves the Court to issue an order to show cause as to why Plaintiff and his counsel should not be sanctioned, or this Court should issues further just orders, under Fed. R. Civ. P.

¹ Mandatory Initial Discovery Pilot was never served on defendant Rowland as demonstrated by two declarations of service filed by Plaintiff (Docs. 12, 37).

1 37(b)(2)A)(C) including but not limited to payment of expenses, staying/extending certain
2 Scheduling Order deadlines, or dismissal.

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4 Based on the June 5, 2020 filing of Defendant's first responsive pleading (Answer)
5 (Doc. 38), the parties' respective Mandatory Initial Discovery (MIDP) responses had to be
6 served no later than July 6, 2020. On July 6, 2020, Defendant served its MIDP responses and
7 also filed a Notice of Service regarding same (Doc. 43). After receiving defendant's MIDP,
8 plaintiff's counsel emailed Plaintiff an insufficient MIDP that contained no relevant
9 information. **See attached Exhibit 1.** During a teleconference on July 7, 2020, undersigned
10 counsel spoke with Plaintiff's counsel by telephone regarding matters related to the Court's
11 June 9, 2020 Order (Doc. 40) Scheduling Conference and Fed. R. Civ. P. 26(f), and matters
12 relating to Plaintiff's failure to provide a sufficient required MIDP response under. Plaintiff's
13 counsel claimed the disclosure was sufficient. Defendant's counsel inquired about item 4 in
14 the MIDP – "for each of your claims state the facts relevant to it and the legal theories upon
15 which it is based." Plaintiff's counsel stated he is not required to "give me" his legal theories
16 and refused to discuss the matter.
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20 During the Scheduling Conference on July 9, 2020, undersigned counsel informed the
21 Court that Plaintiff and his counsel have refused to comply with providing sufficient MIDP
22 responses. Plaintiff's counsel said nothing. The next day, instead of supplementing plaintiff's
23 MIDP responses or filing any Notice of Service regarding the initial MIDP, plaintiff's counsel
24 sent 20 Non-uniform interrogatories and 25 Request for Production via email. **See Exhibit 2.**
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1 After personal consultation and sincere efforts to do so counsel cannot satisfactorily
2 resolve this matter.

3
4 THE CALHOUN LAW FIRM, PLC

5 /s/ Jay Calhoun

6 PO Box 7262

7 Chandler, AZ 85246

8 *Attorney for Defendant*

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10 **CERTIFICATE OF SERVICE**

11 I certify that on the July 10, 2020, I electronically filed Defendant's Motion for
12 Issuance of Order to Show Cause Regarding Plaintiff's Failure to Obey a Discovery Order
13 of this Court with the Clerk's Office using the CM/ECF system for filing and transmittal of
14 a Notice of Electronic Filing to all CM/ECF registrants of record.

15 /s/Jay Calhoun
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